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FEB 25 2004

OFFICE OF PETITIONS

In re Application of
Hamilton
Application No. 10/632,932
Filed: November 7, 2003
Attorney Docket No. 240659US8
FOR: REMOTE DATABASE ACCESS
APPARATUS, METHOD, AND
COMPUTER PROGRAM PRODUCT

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled, "RESPONSE TO "NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION," filed November 7, 2003, requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application (Notice), mailed October 31, 2003. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on August 4, 2003. On October 31, 2003, the Office of Initial Patent Examination mailed a Notice informing petitioner that no filing date had been accorded to the above-identified application because the application as filed did not include drawings. In addition, the Notice stated that an abstract and a oath/declaration were omitted.

It is noted that page 13 of the specification is missing, as well. The October 31, 2003 Notice should have notified petitioner of this fact. The undersigned will view the instant petition as a constructive petition under 37 CFR 1.53(e) with respect to omitted page 13 of the specification in order to expedite processing of this application.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the application be accorded a filing date of August 4, 2003 on the basis that 7 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on August 4, 2003. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing August 4, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 7 sheets of drawings, a 2 page declaration, and 22 pages of specification. A review of the application file reveals that only 20 pages of specification are present. The pages missing are pages 13 and 22.

The return receipt postcard constitutes *prima facie* evidence that 7 sheets of drawing figures, 22 pages of specification, including page 13 and page 22 (the abstract), and a 2 page declaration were filed on August 4, 2003. MPEP 503. Accordingly, the request is **GRANTED**.

Pursuant to petitioner's authorization, the \$130.00 petition fee will be credited to deposit account no. 15-0030.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **August 4, 2003**, using the copy of the 7 sheets of drawings, page 13 of the

specification, page 22 (the abstract), and the 2 page declaration submitted with the instant petition. Office records will be corrected to show that 7 sheets of drawings were present on filing.

Petitioner is requested to submit another copy of the 2 page Application Data Sheet filed on August 4, 2003, as it is missing from the application file.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.



E. Shirene Willis
Senior Petitions Attorney
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